

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

---

UNITED STATES OF AMERICA,

Plaintiff,

v.

ORDER

MELVIN SCHWARTZ,

01-CR-117-S

Defendants.

---

Defendant's supervised release was revoked on September 5, 2007. Defendant's appeal to the United States Court of Appeals for the Seventh Circuit was docketed on September 20, 2007 which was untimely. Defendant now moves retroactively for an extension of time.

Pursuant to the Rules of Appellate Procedure, Rule 4(a)(5)(A)(I), a motion for an extension of time must be filed no later than 30 days after the time for appeal expires. Defendant has not complied with this rule.

Pursuant to Rule 4(a)(5)(A)(ii), a motion for an extension of time can be filed after the 30 days where the party shows excusable neglect or good cause. Defendant has now provided the required notice to the other parties. Rule 4(a)(5)(B).

Defendant's counsel contends that he filed the appeal less than one calendar day late after attempting for two days to file

his Notice of Appeal via electronic means. The Court does not find that this is good cause or excusable neglect. Accordingly, defendant's request for an extension of time to file his appeal will be denied.

ORDER

IT IS ORDERED that defendant's motion for an extension of time to file his appeal is DENIED.

Entered this 27<sup>th</sup> day of December, 2007.

BY THE COURT:

/s/

---

JOHN C. SHABAZ  
District Judge